

ORDINANCE NO. 1461

**AN URGENCY ORDINANCE OF THE
NAPA COUNTY BOARD OF SUPERVISORS
AMENDING CHAPTER 8.80 OF
THE NAPA COUNTY CODE ENTITLED
DISASTER RECOVERY**

The Napa County Board of Supervisors ordains as follows:

SECTION 1. AUTHORITY.

This Urgency Ordinance is adopted pursuant to Government Code Section 25123(d), the states of emergency declared by the Governor and the Napa County Executive Officer, and the local health emergency declared by the Napa County Health Officer.

SECTION 2. EMERGENCY FINDINGS.

The Board of Supervisors hereby finds, determines and declares that this Ordinance is necessary for the immediate preservation of the public peace, health, or safety, based upon the following facts:

A. Conditions of extreme peril to the safety or persons and property within Napa County were caused by multiple fires sparked by lightning on August 17, 2020, collectively referred to as the 2020 LNU Lightning Complex Fire.

B. On August 18, 2020, the Governor proclaimed a State of Emergency to exist in California due to fires burning statewide.

C. On August 19, 2020, the County Executive Officer of Napa County proclaimed the existence of a local emergency within Napa County due to the 2020 LNU Lightning Complex Fire.

D. On August 19, 2020, the Napa County Health Officer proclaimed the existence of a local health emergency within Napa County due to an imminent and proximate threat to public health posed by the 2020 LNU Lightning Complex Fire.

E. On August 20, 2020, the Napa County Board of Supervisors ratified the local health emergency declared by the Napa County Health Officer and the state of local emergency declared by the Napa County Executive Officer, pursuant to Resolution No. 2020-112.

F. In response to destructive wildfires in Napa County in 2017, the Board of Supervisors added Chapter 8.80 to the Napa County Code to adopt various policies related to use, occupancy and construction of dwellings and other structures to allow for the fastest possible reconstruction of structures lost or damaged as a result of the 2017 wildfires.

G. The Board of Supervisors amended Chapter 8.80 of the Napa County Code on August 14, 2018, in response to the 2018 Steele Fire, to allow the victims of that fire to utilize the accelerate process in Chapter 8.80 to reconstruct their homes.

H. The Board of Supervisors previously found that Napa County is experiencing a housing crisis. Even prior to the 2017 Napa Fire Complex and the 2018 Steele Fire, there has been a lack of rental housing in the unincorporated area of the County that is affordable to lower and moderate income residents.

I. Destruction of housing in neighboring counties further exacerbates the ability of persons who live or work in Napa County to find affordable housing, and for those who have been displaced by the recent fires to find new housing.

J. In order to assist property owners and residents impacted by the 2020 LNU Lightning Complex Fire, the Board of Supervisors desires that policies and provisions of Napa County Code Chapter 8.80 provided to persons and businesses affected by the 2017 wildfires and

the 2018 Steele Fire, also be made available to those impacted by the 2020 LNU Lightning Complex Fire.

K. The Director of the PBES Department has prepared a list of approximately 270 property owners who have lost their homes or other structures as a result of the 2020 LNU Lightning Complex Fire. The Board of Supervisors desires to provide these property owners immediate and expedited assistance with the rebuilding process.

L. It is essential that the changes made by this Ordinance to the Napa County Code be implemented immediately to allow the fastest possible transition of displaced residents and property owners to reconstruct structures lost or damaged by the 2020 LNU Lightning Complex Fire and return to their properties.

SECTION 3. AMENDMENTS TO CHAPTER 8.80 ENTITLED DISASTER RECOVERY.

Chapter 8.80 entitled Disaster Recovery, is hereby amended as set forth in Exhibit “A” to this Ordinance.

SECTION 4. SEVERABILITY.

It is hereby declared to be the intention of the Board of Supervisors that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable, and if any phrase, clause, section, paragraph or sentence of this Ordinance shall be declared unconstitutional or invalid by a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

SECTION 5. EFFECTIVE DATE.

This Urgency Ordinance shall take effect immediately upon its approval by at least four-fifths vote of the Board of Supervisors pursuant to Government Code Section 25123(d).

SECTION 6. CEQA COMPLIANCE.

The Board of Supervisors finds that adoption of this Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080(b)(3) regarding projects to maintain, repair, restore, or replace property or facilities damaged or destroyed as a result of a declared disaster and Section 21080(b)(4) regarding actions to mitigate or prevent an emergency, and CEQA Guidelines Section 15269(a) regarding maintaining, repairing, restoring, demolishing or replacing property or facilities damaged or destroyed as a result of a disaster stricken area in which a state of emergency has been proclaimed by the Governor pursuant to the California Emergency Services Act, commencing with Section 8550 of the Government Code.

SECTION 7. REPORT.

The Director of PBES is hereby directed to prepare and submit to the Board of Supervisors a written report regarding the number of rebuilding permits, processing time and effectiveness of the recovery measures provided in this Ordinance within one year after adoption of this Ordinance.

SECTION 8. PUBLICATION.

Within 15 days after adoption, the full text of this Ordinance shall be published in the Napa Valley Register along with the names of those Supervisors voting for and against the Ordinance, and a certified copy of the full text of this Ordinance shall be posted in the Office of the Clerk of the Board of Supervisors along with the names of those Supervisors voting for and

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against the Ordinance.

The foregoing Urgency Ordinance was introduced, read and passed at a regular meeting of the Napa County Board of Supervisors, State of California, held on September ____, 2020, by the following four-fifths vote:

AYES:	SUPERVISORS	WAGENKNECHT, GREGORY, PEDROZA, RAMOS and DILLON
NOES:	SUPERVISORS	NONE
ABSTAIN:	SUPERVISORS	NONE
ABSENT:	SUPERVISORS	NONE

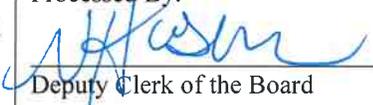
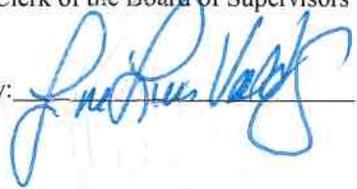
NAPA COUNTY, a political subdivision of the State of California

By:

DIANE DILLON, Chair of the Board of Supervisors

Attachment:

- Exhibit A

<p>APPROVED AS TO FORM Office of County Counsel</p> <p>By: <u>Laura J. Anderson (e-sign)</u> Deputy County Counsel</p> <p>By: <u>Meredith Trueblood (e-sign)</u> County Code Services</p> <p>Date: September 8, 2020</p>	<p>APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS</p> <p>Date: September 15, 2020</p> <p>Processed By:  Deputy Clerk of the Board</p>	<p>ATTEST: JOSE LUIS VALDEZ Clerk of the Board of Supervisors</p> <p>By: </p>
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I HEREBY CERTIFY THAT THE ORDINANCE ABOVE WAS POSTED IN THE OFFICE OF THE CLERK OF THE BOARD IN THE ADMINISTRATIVE BUILDING, 1195 THIRD STREET ROOM 310, NAPA, CALIFORNIA ON _____.

_____, DEPUTY
JOSE LUIS VALDEZ, CLERK OF THE BOARD

EXHIBIT “A”

Section One. Section 8.80.010 (Purpose and Intent) of Chapter 8.80 of the Napa County Code is amended to read in full as follows:

8.80.010 - Purpose and Intent.

The purpose and intent of this chapter is to establish procedures to facilitate expediency in the process of rebuilding, repairing or replacing structures that were damaged or lost as a result of the 2017 Napa Fire Complex, the 2018 Steele Fire, and the 2020 LNU Lightning Complex Fire disasters. Notwithstanding any other provisions that may conflict, this section shall control with respect to redevelopment or repair of structures and properties that incurred damage during the 2017 Napa Fire Complex, the 2018 Steele Fire, and the 2020 LNU Lightning Complex Fire disasters.

Section Two. Section 8.80.020 (Definitions) of Chapter 8.80 of the Napa County Code is amended to read in full as follows:

8.80.020 - Definitions.

For purposes of this chapter, the following definitions shall apply:

“Burn area” means the land burned over by wildland fire.

“Department” means the planning, building and environmental services department.

“Designated public roads” shall mean those roads identified in Napa County General Plan Community Character Element Figure CC-3.

“Director” means the director of the planning, building and environmental services department or the director’s designee.

“Fire” or “Fire disaster” means the 2017 Napa Fire Complex, the 2018 Steele Fire, or the 2020 LNU Lightning Complex Fire and natural occurrences related to or caused by the fires.

“Fire-damaged property” means land within the burn area of the 2017 Napa Fire Complex, the 2018 Steele Fire, the 2020 LNU Lightning Complex Fire or property on which a structure was declared by the director to be unsafe to use or occupy, as a result of the fire disaster.

“Fire-damaged structure” means a structure that was declared by the director to be unsafe to use or occupy, as a result of the Fire disaster.

“Major ridgeline” or “Minor ridgeline” shall have the same definition as contained in Section 18.106.020 (Definitions).

“Substantial views” shall have the same definition as contained in Section 18.106.020 (Definitions).

“Unique topographic or geologic features” shall mean the following landforms: Mt. St. Helena, Stag's Leap, Calistoga Palisades, Round Hill, Mt. George and Mt. St. John.

Section Three. Section 8.80.050 (Effective period.) of Chapter 8.80 (Disaster Recovery) of the Napa County Code is amended to read in full as follows:

8.80.050 - Effective period.

The provisions in this chapter shall expire on December 31, 2024, unless otherwise specified herein, and shall be of no further force or effect unless extended or modified by the board of supervisors.

Section Four. Section 8.80.140 (Legal Nonconformities on Fire-Damaged Properties) of Chapter 8.80 of the Napa County Code is amended to read in full as follows:

8.80.140 - Legal Nonconformities on Fire-Damaged Properties.

- A. Except as provided herein, Chapter 18.132 (Legal Nonconformities) shall apply to fire-damaged properties.
- B. A fire-damaged structure that was a legal nonconformity prior to the fire may be relocated if the director determines that such relocation would enhance opportunities for use of renewable energy sources, decrease the area of impervious surfaces on the property, or would reduce the extent of nonconformity with the minimum setbacks from utilities contained in Section 13.28.040 (Clearance from other facilities).
- C. “Voluntary abandonment” for fire-damaged properties shall mean cessation of the use or portion thereof for six consecutive months or twelve nonconsecutive months in any two-year period or, if the use is seasonal, for more than one season. However, if the cessation is caused by the destruction in whole or in part of conforming or legal nonconforming facilities or structures that are essential to continuation of the use, and that destruction was caused by the fire disaster, then the use shall be deemed voluntarily abandoned unless recommenced as follows: before December 31, 2019, for the 2017 Napa Fire Complex, before December 31, 2020 for the 2018 Steele Fire, or before December 31, 2022 for the 2020 LNU Lightning Complex Fire, if a building permit is not required to repair the structure or facility; or within two years of final inspection if a building permit is required for the fire-damaged structure and such permit is obtained before December 31, 2022 for the 2017 Napa Fire Complex and the 2018 Steele Fire, or before December 31, 2024 for the 2020 LNU Lightning Complex Fire. Upon a showing of good cause, the director may extend by six months the timelines within which a building permit must be obtained or a final inspection conducted.

- D. The provisions for waiver of hearing, and waiver of notice and hearing in subsections (C) (1) and (2), respectively, of Section 18.132.050 (Certificate of present extent of legal nonconformity - Application - Procedure) shall apply to both residential and non-residential fire-damaged properties.

Section Five. Section 8.80.150 (Automatic expiration of use permits) of Chapter 8.80 of the Napa County Code is amended to read in full as follows:

8.80.150 – Automatic expiration of use permits.

In recognition of the limitation of resources for rebuilding in the wake of the fire disaster, any discretionary zoning permit located within a fire-damaged property perimeter and approved after January 1, 2016, and before December 31, 2021, shall, without further action by any county officer or body, expire and become void three years after the date the approving officer or body approved the use permit or, if any appeal is taken to the board of supervisors, three years after the date the decision of the board on appeal becomes final. However, if a shorter or longer time period is included in the conditions of approval of the use permit, that time period shall control.

Section Six. A new Section 8.80.160 (Automatic expiration of building permits) is added to Chapter 8.80 of the Napa County Code to read in full as follows:

8.80.160 – Automatic expiration of building permits.

In recognition of the limitation of resources for rebuilding in the wake of the fire disaster, building permits issued to rebuild residential structures damaged or destroyed by Fire shall, without further action by any county officer or body, expire and become void if the building or work authorized by the permit is not commenced within three years of the date the permit was issued. If any such work is commenced within three years of the issuance of the permit, expiration of the permit shall be determined in accordance with Section 15.04.070, except as modified hereby.